

Supporting Document 6

LATHAM & WATKINS LLP

SAN DIEGO REGIONAL  
WATER QUALITY  
CONTROL BOARD

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June 15, 2005

San Diego Regional Water Quality Control Board  
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File No. 030815-0000

Re: Special Meeting Agenda Items 7 and 8 (Tentative Cleanup and Abatement Order No. R9-2005-0126)

Dear Mr. Robertus:

National Steel and Shipbuilding Company ("NASSCO") is in receipt of the Regional Water Quality Control Board's public notice regarding the June 29th Special Meeting Agenda ("Agenda"). NASSCO renews its objections set forth in our previous motions and, in addition, objects to several aspects of the Board's latest proposed course of action.

The Agenda sets forth a process regarding the above-captioned Tentative Cleanup and Abatement Order ("Tentative CAO") that leaves NASSCO and other potentially responsible parties ("PRPs") uninformed and, consequently, unable to adequately prepare for the proceeding on June 29th. Currently, and despite your having previously ruled on one of our motions, the Agenda specifies that at the hearing on June 29, the Board will rule on our Motion to Compel Production of Evidence and Renewed Motion for Continuance of Public Workshop, filed on June 1, 2005. *The very next agenda item* is the proposed workshop to which that motion is addressed. Therefore, the Board will rule on the procedures and format of the workshop immediately before holding that same workshop, leaving NASSCO, the other PRPs, the public, and the Board itself in limbo, uncertain as to how the Regional Board will be proceeding until moments before the workshop begins. This uncertainty prevents all interested parties from effectively preparing for the workshop and from submitting timely substantive and procedural comments.

In addition, the Board members' receipt of a hearing packet, containing only the Tentative CAO and without the evidentiary basis for the staff's conclusions, prior to the June 29th proceeding will irreversibly taint the fairness and neutrality of the Board's deliberative process. Board staff still refuses to provide any evidentiary basis for the Tentative CAO, and apparently plans to wait for the Regional Board's decision at the June 29th proceeding before disclosing the basis for its proposed order. Consequently, the Board members will be exposed to Board staff's submittal, including the Tentative CAO, without a detailed summary of the purported supporting evidence (including any explanation of how staff arrived at its conclusions, why staff abandoned the Sediment Investigation Plan, and why the extensive evidence contained in the September 2003 *NASSCO and Southwest Marine Detailed Sediment Investigation Report* is being disregarded). The inability of the PRPs and public to present informed comments on the Tentative CAO means that Board members will also not simultaneously receive any informed criticism and

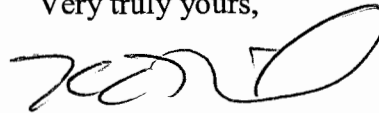
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countervailing views and evidence. This one-sided presentation, which for the overwhelming majority of the Board members will be their first exposure to this proceeding, is prejudicial to the interested parties and to the Board's ability to act impartially.

At this point, it is too late for the Board staff to provide the requisite information to enable NASSCO, the other PRPs, and the members of the public to prepare effectively for the June 29th proceeding. Under these circumstances, the only prudent course is for the Board to limit the June 29th agenda to a decision on agenda item number 7 (the NASSCO motion) and to postpone agenda item number 8 (the workshop) to a later date after the Board has established proper guidelines for that workshop. Any such guidelines must provide for both timely dissemination of the evidentiary basis for the staff's Tentative CAO and ample time at the workshop for the PRPs to present their views.

Please contact me if you have any questions or comments.

Very truly yours,

A handwritten signature in black ink, appearing to read 'KR', with a large, stylized loop at the end.

Kelly Richardson  
of LATHAM & WATKINS LLP

cc: John Minan, RWQCB Chairman  
Lane McVey, NASSCO  
David L. Mulliken, Latham & Watkins LLP